

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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MELISSA ZARDA and WILLIAM MOORE,
co-independent executors second of the estate
of DONALD ZARDA

10-CV-04334 (SJF) (AYS)

Plaintiffs,

- against -

RAYMOND MAYNARD
as the predecessor in interest, the sole shareholder
and alter ego to ALTITUDE EXPRESS, INC., and
RAYMOND MAYNARD, individually,

Defendants.
-----X

**DECLARATION OF SAUL D. ZABELL, ESQ., IN SUPPORT OF
RAYMOND MAYNARD'S MOTION TO DISMISS
THE SECOND AMENDED COMPLAINT PURSUANT TO FED. R. CIV. P. 12(B)(6)**

Saul D. Zabell, Esq., declares under penalty of perjury and in accordance with 28 U.S.C. § 1746, as follows:

1. I am the managing principal of Zabell & Collotta, P.C., counsel for Defendant, Raymond Maynard, in the above-captioned action. I am familiar with the facts and circumstances set forth herein based upon the file maintained by this office.
2. I submit this Declaration in support of Mr. Maynard's pending application, made pursuant to Federal Rules of Civil Procedure ("Fed. R. Civ. P.") Rule 12(b)(6), which seeks dismissal, with prejudice, of all claims pending against him contained in the Second Amended Complaint [ECF Doc. No. 280], interposed by Plaintiffs Melissa Zarda and William Moore, co-independent executors of the estate of Donald Zarda ("Plaintiffs").

3. I further submit this Declaration to introduce certain exhibits referenced within Plaintiff's opposition.
4. Annexed hereto as Exhibit "A" is a true and accurate copy of Mr. Zarda's Second Amended Complaint, dated and filed March 28, 2014 [ECF Doc. No. 146].
5. Annexed hereto as Exhibit "B" is a true and accurate copy of the jury verdict sheet of this action, dated and filed October 21, 2015 [ECF Doc. No. 246].
6. Annexed hereto as Exhibit "C" is a true and accurate copy of the prior Judgment of this action, dated and filed by the Clerk of the Court on October 28, 2015 [ECF Doc. No. 247].
7. Annexed hereto as Exhibit "D" is a true and accurate copy of the Second Circuits' Statement of Costs, dated May 14, 2018 [App. Doc. No. 535].
8. Annexed hereto as Exhibit "E" is a true and accurate copy of the Second Amended Judgment of the U.S. Supreme Court, dated August 6, 2020 [App Doc. No. 553].
9. Annexed hereto as Exhibit "F" is a true and accurate copy of Plaintiffs' Second Amended Complaint, dated December 16, 2020 and filed December 28, 2020 [ECF Doc. No. 280].
10. For the reasons set forth more fully in the accompanying Memorandum of Law, it is respectfully submitted that Plaintiffs' Second Amended Complaint [ECF Doc. No. 280] be dismissed, with prejudice, in its entirety.

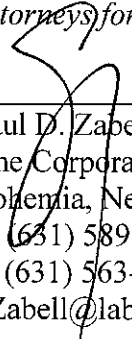
Dated: January 29, 2021
Bohemia, New York

Respectfully Submitted,

ZABELL & COLLOTTA, P.C.

Attorneys for Defendant Raymond Maynard

By:


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